

UNITED STATES COURT OF APPEALS

OCT 18 2001

TENTH CIRCUIT

PATRICK FISHER
Clerk

MITCHELL JACK JONES, JR.,

Plaintiff - Appellant,

v.

JULIE MCKENNA, Assistant District
Attorney, Salina, KS; (FNU)
JERKOVICH, Psychiatrist, Salina, KS;
WILLIAM HERMESMEYER, Public
Defender; MARK DINKLE, Head
Public Defender; R E SCHULMAN,
Clinical and Forensic Psychology;
DOUGLAS D. SHEAFER, Medical
Doctor, Psychiatry; STEVE
SHELTON, Medical Doctor,
Psychiatry; WILLIAM HALE, Medical
Doctor, Psychiatry, SNEHAL SHIMPI,
Medical Doctor, Psychiatry; MARY
ANN ABBOTT, Psychiatry Doctor;
DOLLY WEILLER, Clinical
Psychology; and JANE DOE, Director
of Central Kansas Mental Health,

Defendants - Appellees.

No. 01-3074

(D.C. No. 00-CV-3474-GTV)

(D. Kansas)

ORDER AND JUDGMENT*

Before **SEYMOUR** and **McKAY**, Circuit Judges, and **BRORBY**, Senior Circuit
Judge.

*This order and judgment is not binding precedent, except under the
doctrines of law of the case, res judicata, and collateral estoppel. The court
generally disfavors the citation of orders and judgments; nevertheless, an order
and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

After examining the briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

When Plaintiff filed the original complaint in this case, he designated it as pursuant to 42 U.S.C. § 1983. In a well-stated order, the district court correctly dismissed Plaintiff's complaint pursuant to 28 U.S.C. § 1915A(a) and (b). The district court then granted Plaintiff leave to appeal *in forma pauperis*.

On appeal, Plaintiff appears to argue that he is also entitled to habeas corpus pursuant to 28 U.S.C. § 2254. He relies on the same facts that he alleged in the trial court plus some additional facts. While the district court never addressed this case as one for habeas corpus, after review of the pleadings and briefs, we conclude that Plaintiff has failed to adequately plead a plausible action for habeas corpus.

However characterized, we conclude that this action fails. Therefore, the district court's order dismissing the action is affirmed. The motion for appointment of counsel is denied.

Appellant is reminded that he is still obligated to finish payment of the filing fee ordered by the district court.

AFFIRMED.

Entered for the Court

Monroe G. McKay
Circuit Judge